

Application Number:	09/930,559 09930559
Filing Date:	08/15/2001
First Named Inventor:	Dawson
Art Unit:	1642
Examiner Name:	Aeder, Sean
Number of Pages in this Submission:	Attorney Docket Number: ARCD:351US

RECEIVED  
JAN 4 2006  
TECH CENTER 1600  
1602-2900

## ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawings(s) _____	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Statement under 37 CFR §3.73(b)	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below)
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Designation of Patent Practitioners	<input type="checkbox"/> Check in the amount of _____
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Sequence Statement
<input type="checkbox"/> Form PTO-1449	<input type="checkbox"/> Request for Refund	<input type="checkbox"/> Paper Copy of Sequence Listing
<input type="checkbox"/> References _____	<input type="checkbox"/> CD, Number CD(s) _____	<input type="checkbox"/> Computer Readable Form (CRF)
<input type="checkbox"/> Certified Copy of Priority Documents	<input type="checkbox"/> Landscape Table on CD	<input checked="" type="checkbox"/> Postcard
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> _____	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> _____	
<input type="checkbox"/> Declaration(s) _____	<input type="checkbox"/> _____	
<input type="checkbox"/> Copy of Notice of Missing Parts	<input type="checkbox"/> _____	

Remarks: If the check is inadvertently omitted, or the amount is insufficient, or should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials, or should an overpayment be included herein, the Commissioner is authorized to deduct or credit said fees from or to Fulbright & Jaworski L.L.P. Account No.: 50-1212/

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Fulbright & Jaworski, L.L.P.	Customer Number	32425
Signature			
Printed Name	Gina N. Shishima	Reg. No.	45,104
Date	June 17, 2005		

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	
Typed or Printed Name	Gina N. Shishima
Date	June 17, 2005

## Transmittal Form to Commissioner for Patents

June 17, 2005

Our reference: ARCD:351US

Your reference: UCHI:812



bcc: Lester Davis

Dr. Glyn Dawson (w/encl.)

Dr. Seongeun Julia Cho (w/encl.)

David L. Parker, Esq. (w/o encl.)

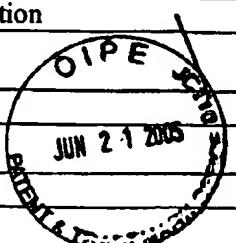
RECEIVED  
JAN 14 2006  
TECH CENTER 1600/2900

## Please indicate receipt of the below-identified paper:

<input type="checkbox"/> New Application For:		Priority Date: 08/15/2001		
<input type="checkbox"/> Foreign priority already claimed				
<input type="checkbox"/> Continuation	<input type="checkbox"/> CIP	<input type="checkbox"/> Divisional	CPA	<input type="checkbox"/>
<input type="checkbox"/> Specification:	Pages	<input type="checkbox"/> Drawings:	Sheets	
<input checked="" type="checkbox"/> Response to Office Action Dated: 5/17/2005		<input type="checkbox"/> Final Rejection		
<input checked="" type="checkbox"/> Other: Transmittal letter				
<input type="checkbox"/> Assignment Enclosed		<input checked="" type="checkbox"/> Cert. of Timely Mailing		<input type="checkbox"/> Exp. Mail:

IDENTIFICATION OF APPLICATION

Serial No.: 09/930,599 09930559	
Title: COMPOUNDS THAT ENHANCE TUMOR DEATH	
Applicant: Dawson, et al.	Attorney: GNS
Client: Arch Development Corp.	F&J File No.: ARCD:351US
Mailed: June 17, 2005	Filed:
Due Date:	





PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Glyn Dawson  
Seongeun Julia Cho

Serial No.: 09/930,559

Filed: August 15, 2001

For: COMPOUNDS THAT ENHANCE  
TUMOR DEATH

Group Art Unit: 1642

Examiner: Aeder, Sean

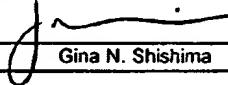
Atty. Dkt. No.: ARCD:351US

RECEIVED  
JAN 24 2006  
TECH CENTER 1600/2900

CERTIFICATE OF MAILING  
37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: MS SEQUENCE, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date below:

June 17, 2005  
Date

  
Gina N. Shishima

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Commissioner:

This paper is submitted in response to the Restriction Requirement dated May 17, 2005  
for which the date for response is August 17, 2005.

It is believed that no fee is due; however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to this document, the Commissioner is authorized to deduct said fees from Fulbright & Jaworski L.L.P. Account No.: 50-1212/ARCD:351US.

In response to the restriction requirement which the Examiner imposed, Applicants elect, with traverse, to prosecute claims 1-6, 8-10, 15-23, 27, 32-37, and 42-46, i.e., the Group 3 claims for the reasons discussed below.

Applicants traverse the restriction requirement because Group I necessarily includes Group III. Group I is distinguished from Groups II and III because it recites a peptide that comprises at least or at most 5 contiguous amino acids from SEQ ID NO:3. SEQ ID NO:3 sets forth the amino acid sequence GCVKIKK. Group III is distinguished from Groups I and II for reciting a peptide that is DAP1. DAP1 is a peptide that is AcG-palmitoyl diamino propionate-VKIKK. *See e.g.*, specification at page 7, lines 11-12.

The Restriction indicates that “Groups I-III represent chemically distinct methods comprised of a multitude of different amino acid sequences.” Restriction at page 4. However, it is clear that DAP1 has the VKIKK sequence from SEQ ID NO:3. Moreover, the structure and content of the originally filed claims makes this clear. Claim 11 recites “wherein the peptide comprises at least or at most 5 contiguous amino acids from SEQ ID NO:3.” Claim 12 depends from claim 11 and recites “wherein the peptide comprises the sequence VKIKK.” Both claims 11 and 12 were identified as belonging to Group I. Claim 22 recites “wherein the peptide is DAP1.” Significantly, claim 22 depends from claim 12, but claim 22 was designated in Group III and not in Group I (as claim 12 was).

Applicants contend that a search for both Groups I and III would not be undue because this would involve searching for any five contiguous amino acid sequence from SEQ ID NO:3, which is only 8 amino acids long.

Furthermore, Applicants note that there are linking claims encompassing both Group I and III (claims 1-6 and 8-10) and claim 11 itself is a linking claim for Group III. The MPEP indicates that one of the most common linking claims is a “genus claim linking species claims.” MPEP § 809.03. Applicants remind the examiner that the linked claims “must be examined with

any one of the linked inventions that may be elected." M.P.E.P. § 814. The MPEP specifically indicates:

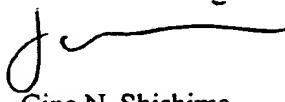
Where the requirement for restriction in an application is predicated upon the nonallowability of generic or other type of linking claims, applicant is entitled to retain in the case claims to the nonelected invention or inventions. MPEP §809.04.

Therefore, if the claimed method is deemed allowable with respect to DAP1, a search will necessarily have to be done with respect to the linking claims, which includes a search of SEQ ID NO:3, a set forth in linking claim 11.

Consequently, for the foregoing reasons Applicants respectfully request that Groups I and III be rejoined.

The Examiner is invited to contact the undersigned attorney at (512) 536-3081 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



Gina N. Shishima  
Reg. No. 45,104  
Attorney for Applicant

FULBRIGHT & JAWORSKI L.L.P.  
600 Congress Avenue, Suite 2400  
Austin, Texas 78701  
(512) 474-5201  
(512) 536-4598 (facsimile)

Date: June 17, 2005